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MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: ROBERT WILLIAM YALEN
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2722
Facsimile: (212) 637-2687

FILED
U.S. DISTRICT COURT
2007 NOV -6 PM 3:59
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM J. PEPPER, III, NANCY PEPPER-
ARMANO, MANUFACTURERS AND
TRADERS TRUST COMPANY, ABL
PROPERTIES, INC., NEW YORK STATE TAX
COMMISSION, FLEET NATIONAL BANK and
JOHN DOES NOS. 1-10

Defendants.
----- X

JUDGE ROBINSON

COMPLAINT

ECF Case

07 Civ. ()

07 CIV 9835

Plaintiff, United States of America, by its attorney Michael J. Garcia, United States Attorney for the Southern District of New York, herein alleges upon information and belief for its complaint as follows:

INTRODUCTION

1. This is a civil action brought by plaintiff, the United States of America (the "plaintiff"), on behalf of its agency the Internal Revenue Service ("IRS"), (a) to reduce to judgment an assessment of the federal tax liabilities of defendant William J. Pepper, III ("Pepper") for unpaid taxes, penalties, interest, and fees provided by law, and (b) to foreclose on a tax lien

upon real property at 16 North Fremont Avenue, Nanuet, New York (the "Property") for such federal tax liabilities.

2. This action has been authorized and requested by a delegate of the Secretary of the Treasury, and is brought at the direction of the Attorney General of the United States pursuant to the provisions of 26 U.S.C. §§ 7401 and 7403.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1340 and 1345 and 26 U.S.C. §§ 7402(a) and 7403(a).

4. Venue is proper pursuant to 28 U.S.C. §§ 1391(b) and 1396, because one or more defendants, including defendant Peper, resides in the Southern District of New York, because the Property is located in the Southern District of New York, and because the tax liability giving rise to this action accrued while the taxpayer, Peper, resided in the Southern District of New York.

PARTIES

5. Defendant Peper is a natural person whose last known address is 16 North Freemont Avenue, Nanuet, New York.

6. Defendant Peper-Armano is a natural person whose last known address is 1870 Baldwin Road, Apartment 49, Yorktown Heights, New York.

7. Defendant Manufacturers and Traders Trust Company is a corporation with an office at 1 M & T Plaza, Buffalo, New York, and is named as a defendant herein because it may hold a mortgage on the Property dated March 24, 1993.

8. Defendant ABL Properties, Inc. is a corporation with offices at 2 Bardonia Mall, Route 304, Bardonia, New York, and is named as a defendant herein because it has, or may claim

to have, a claim, lien, or interest as against the mortgaged property arising from a judgment in the amount of \$13,066.46 recorded by the Rockland County Clerk on March 27, 2002, under index number 2002-17949.

9. Defendant New York State Tax Commission is named as a defendant herein because it has, or may claim to have, an interest in, claim or lien against the Property.

10. Defendant Fleet National Bank, is a corporation with Consumer Loans Operations offices at 315-317 Court Street, Utica, New York, and is named as a defendant herein because it may hold a mortgage on the Property dated May 29, 2003.

11. Defendants John Does Nos. 1-10 are fictitious persons or entities unknown to plaintiff who may have an interest in the Property or in this action.

FIRST CLAIM FOR RELIEF
REDUCTION OF ASSESSMENTS TO JUDGMENT

12. The allegations in paragraphs 1 through 11 are repeated and realleged as though set forth fully herein.

13. The IRS assessed Peper's 1994 taxes on April 12, 1999.

14. The IRS assessed Peper's 1995 taxes on April 5, 1999.

15. The IRS assessed Peper's 1996 taxes on March 22, 1999.

16. Peper has unpaid federal tax liabilities (including tax, interest, penalties, and lien fees) for the years 1994, 1995 and 1996 in the total amount of \$65,743.77, as of August 24, 2007.

17. Peper's unpaid federal tax liabilities for these three years, as of August 24, 2007, break down as follows:

<u>Year</u>	<u>Tax</u>	<u>Interest</u>	<u>Penalties</u>	<u>Lien Fees</u>	<u>Total</u>
1994	\$3,477.30	\$10,532.49	\$3,074.90	\$14.00	\$17,098.69
1995	\$9,365.00	\$15,943.28	\$4,912.37	\$ 0.00	\$30,220.65
1996	\$5,573.89	\$9,465.74	\$3,384.80	\$ 0.00	\$18,424.43
TOTAL					\$65,743.77

18. As plaintiff's first claim for relief, plaintiff seeks to reduce the federal tax assessment to judgment.

SECOND CLAIM FOR RELIEF
FORECLOSURE

19. The allegations of paragraphs 1 through 18 hereof are repeated and realleged as though fully set forth herein.

20. By reason of the foregoing, and pursuant to 26 U.S.C. §§ 6321 and 6322, a federal tax lien arose as of the date of each assessment in favor of the United States upon all property and rights to property of Peper in the amount of the assessment, plus interest, penalties and costs subsequently accrued. This lien attached to all property and rights to property held by Peper at the time of each assessment, and to all property and rights in property subsequently acquired by Peper.

21. On May 1, 1999, Virginia Peper, mother of defendants Peper and Peper-Armano, died.

22. Upon their mother's death, Peper and Peper-Armano each inherited fifty percent of the Property, which had previously been their mother's residence.

23. Pursuant to 26 U.S.C. §§ 6321 and 6322, plaintiff's lien attached to Peper's interest in the Property upon his acquisition of that interest.

24. On January 29, 2001, a Notice of Federal Tax Lien, covering the tax years 1994, 1995 and 1996, was filed with the Rockland County Clerk's Office. *See* Notice of Federal Tax Lien attached hereto as Exhibit 1.

25. On June 4, 2001, William J. Peper transferred his interest in the Property to Peper-Armano.

26. Peper-Armano took Peper's interest in the Property subject to plaintiff's lien covering tax years 1994, 1995, and 1996.

27. The federal tax liens attached to Peper's former interest in the Property have not been satisfied.

28. No other action has been commenced at law or otherwise for the recovery of this sum or any part thereof.

WHEREFORE, plaintiff the United States of America demands judgment:

(a) reducing to judgment Peper's federal tax liabilities, including interest and penalties thereon and lien fees relating thereto, for the tax years 1994, 1995, and 1996;

(b) declaring that the fifty percent interest in the Property previously owned by Peper and subsequently conveyed to Peper-Armano is subject to a valid federal tax lien;

(c) declaring that the defendants and all other persons whose interest in the Property is subordinate to or recorded after the attachment of the Government's lien be forever barred and foreclosed from all right, title, claim, lien or other interest in the Property;

(d) directing the foreclosure of plaintiff's lien upon the Property and sale of the Property by the United States Marshal or his representative, pursuant to 28 U.S.C. §§ 2001 and 2004, with the proceeds to be applied to the debt due plaintiff under the lien, together with interest to the date of payment, plus costs and disbursements of this action;

(e) adjudging Peper liable for a deficiency judgment, in the event of a deficiency in the amount collected upon the sale of the Property, in the amount of any such deficiency;

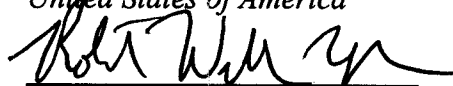
(f) directing that any current occupant of the Property vacate it on or before the date of foreclosure upon the lien; and

(g) granting plaintiff its costs, disbursements, and such further relief against defendants as the Court may deem just and proper.

Dated: New York, New York
November 6, 2007

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
United States of America

By:



ROBERT WILLIAM YALEN
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2722
Facsimile: (212) 637-2687

495

Form 668 (Y)(c)
(Rev. October 2000)

Department of the Treasury - Internal Revenue Service

Notice of Federal Tax LienArea:
SMALL BUSINESS/SELF EMPLOYED AREA #2
Lien Unit Phone: (800) 829-3903Serial Number
130162590

For Optional Use by Recording Office

18453

As provided by section 6321, 6322, and 6323 of the Internal Revenue Code, we are giving a notice that taxes (including interest and penalties) have been assessed against the following-named taxpayer. We have made a demand for payment of this liability, but it remains unpaid. Therefore, there is a lien in favor of the United States on all property and rights to property belonging to this taxpayer for the amount of these taxes, and additional penalties, interest, and costs that may accrue.

Name of Taxpayer WILLIAM J PEPER III

Residence 16 N FREMONT AVE
NANUET, NY 10954-2605

FILED

JAN 29 2001

ROCKLAND COUNTY
CLERK'S OFFICE

IMPORTANT RELEASE INFORMATION: For each assessment listed below, unless notice of the lien is refied by the date given in column (e), this notice shall, on the day following such date, operate as a certificate of release as defined in IRC 6325(a).

Kind of Tax (a)	Tax Period Ending (b)	Identifying Number (c)	Date of Assessment (d)	Last Day for Refiling (e)	Unpaid Balance of Assessment (f)
1040	12/31/1994	102-46-0333	04/12/1999	05/12/2009	11438.14
1040	12/31/1995	102-46-0333	04/05/1999	05/05/2009	16805.33
1040	12/31/1996	102-46-0333	03/22/1999	04/21/2009	11037.21

Place of Filing

County Clerk
Rockland County
New City, NY 10956

Total \$ 39280.68

This notice was prepared and signed at NEW YORK, NY, on this,

the 26th day of January, 2001.

Signature

for C SILLS

*Marie Klier*Title
ACS

(800) 829-3903

13-01-0008

(NOTE: Certificate of officer authorized by law to take acknowledgment is not essential to the validity of Notice of Federal Tax Lien
Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Part 2 - Internal Revenue Service TDA Copy

Form 668(Y)(c) (Rev. 10-00)
CAT. NO 80025X